

TABLE OF CONTENTS

ARTICLE 1.0000 PERMITTING PROVISIONS FOR AIR POLLUTION SOURCES, RULES AND OPERATING REGULATIONS FOR ACID RAIN SOURCES, TITLE V AND TOXIC AIR POLLUTANTS

	Page
Section 1.5500 Title V Procedures	
1.5501 Purpose of Section and Requirement for a Permit.....	155-01
1.5502 Applicability	155-02
1.5503 Definitions.....	155-03
1.5504 Option for Obtaining Construction and Operation Permit.....	155-06
1.5505 Application Submittal Content	155-06
1.5506 <i>Initial Permit Application Submittal (Repealed)</i>	155-08
1.5507 Application.....	155-08
1.5508 Permit Content	155-11
1.5509 Permitting of Numerous Similar Facilities	155-15
1.5510 Permitting of Facilities at Multiple Temporary Sites	155-16
1.5511 <i>Synthetic Minor Facilities (Repealed)</i>	155-16
1.5512 Permit Shield and Application Shield.....	155-16
1.5513 Permit Renewal and Expiration.	155-17
1.5514 Administrative Permit Amendments.....	155-18
1.5515 Minor Permit Modifications	155-19
1.5516 Significant Permit Modification	155-21
1.5517 Reopening for Cause.....	155-22
1.5518 Final Action	155-23
1.5519 Termination, Modification, Revocation of Permits	155-24
1.5520 Certification by Responsible Official.	155-25
1.5521 Public Participation.....	155-25
1.5522 Review by EPA and Affected States	155-26
1.5523 Changes Not Requiring Permit Revisions	155-27
1.5524 Ownership Change.....	155-28
1.5525 Application Processing Schedule.....	155-29
1.5526 112(j) Case-By-Case MACT Procedures.....	155-30
1.5527 Expedited Application Processing Schedule	155-38
1.5528 112(g) Case-by-Case MACT Procedures	155-39

SECTION 1.5500 TITLE V PROCEDURES

1.5501 PURPOSE OF SECTION AND REQUIREMENT FOR A PERMIT

(a) The purpose of this Section is to establish an air quality permitting program as required under Title V and 40 CFR Part 70.

(b) The procedures and requirements under this Section do not apply until EPA approves this Section.

(c) With the exception in Paragraph (d) of this Regulation, the owner or operator of an existing facility, new facility, or modification of an existing facility except for minor modifications under MCAPCO Regulation 1.5515 - "Minor Permit Modifications", including significant modifications that would not contravene or conflict with a condition in the existing permit, subject to the requirements of this Section shall not begin construction without first obtaining:

- (1) a construction and operation permit following the procedures under this Section except for MCAPCO Regulation 1.5504 - "Option for Obtaining Construction and Operation Permit",
or
- (2) a construction and operation permit following the procedures under MCAPCO Regulation 1.5504 - "Option for Obtaining Construction and Operation Permit" and filing a complete application within 12 months after commencing operation to modify the construction and operation permit to meet the requirements of this Section.

(d) If the permittee proposes to make a significant modification under MCAPCO Regulation 1.5516 - "Significant Permit Modification" that would contravene or conflict with a condition in the existing permit, he shall not begin construction or make the modification until he has obtained:

- (1) a construction and operation permit following the procedures under this Section except for MCAPCO Regulation 1.5504 - "Option for Obtaining Construction and Operation Permit";
or
- (2) a construction and operation permit following the procedures under MCAPCO Regulation 1.5504 - "Option for Obtaining Construction and Operation Permit" and, before beginning operation, files an application and obtains a permit modifying the construction and operation permit to meet the requirements of this Section except for MCAPCO Regulation 1.5504 - "Option for Obtaining Construction and Operation Permit".

(e) All facilities subject to this Section must have a permit to operate that assures compliance with 40 CFR Part 70 and all applicable requirements.

(f) Except as allowed under MCAPCO Regulation 1.5515 - "Minor Permit Modifications", no facility subject to the requirements of this Section may operate after the time that it is required to submit a timely and complete application under this Section except in compliance with a permit

issued under this Section. This Paragraph does not apply to initial submittals under MCAPCO Regulation 1.5506 - "Initial Permit Application Submittal" or to permit renewals under MCAPCO Regulation 1.5513 - "Permit Renewal and Expiration".

(g) If the conditions of MCAPCO Regulation 1.5512 - "Permit Shield and Application Shield" Paragraph (b) are met, the facility's failure to have a permit under this Section shall not be a violation.

(h) If the owner or operator of a facility subject to the requirements of this Section submits an application for a revision to his permit before receiving the initial permit under this Section, the application for the revision shall be processed under MCAPCO Section 1.5200 - "Air Quality Permits".

(i) The owner or operator of a facility or source subject to the requirements of this Section may also be subject to the toxic air pollutant procedures under MCAPCO Section 1.5700 - "Toxic Air Pollutant Procedures".

(j) The owner or operator of an affected unit subject to the acid rain program requirements of Title IV is also subject to the procedures under MCAPCO Section 1.5400 - "Acid Rain Procedures".

(k) The owner or operator of a facility subject to the requirements of this Section shall pay permit fees in accordance with the requirements of MCAPCO Regulation 1.5231 - "Air Quality Fees".

History Note: Filed as a Temporary Rule Eff. March 8, 1994 for a period of 180 days or until the permanent rule is effective, whichever is sooner; Authority G.S. 143-215.3(a)(1); 143-215.107(a)(10); 143-215.108; Eff. July 1, 1994; Amended Eff. July 1, 1998; July 1, 1996.

1.5502 APPLICABILITY

(a) Except as provided in Paragraph (b) or (c) of this Regulation, the following facilities are required to obtain a permit under this Section:

- (1) major facilities;
- (2) facilities with a source subject to MCAPCO Regulation 2.0524 - "New Source Performance Standards" or 40 CFR Part 60, except new residential wood heaters;
- (3) facilities with a source subject to MCAPCO Regulation 2.1110 - "National Emission Standards For Hazardous Air Pollutants" or 40 CFR Part 61, except asbestos demolition and renovation activities;
- (4) facilities with a source subject to MCAPCO Regulation 2.1111 - "Maximum Achievable Control Technology" or 40 CFR Part 63 or any other standard or other requirement under Section 112 of the federal Clean Air Act, except that a source is not required to obtain a permit solely because it is subject to rules or requirements under

- Section 112(r) of the federal Clean Air Act;
- (5) facilities to which MCAPCO Regulations 2.0517 - "Emissions From Plants Producing Sulfuric Acid", 2.0528 - "Total Reduced Sulfur From Kraft Pulp Mills", or 2.0529 - "Fluoride Emissions From Primary Aluminum Reduction Plants", applies;
 - (6) facilities with a source subject to Title IV or 40 CFR Part 72;
 - or
 - (7) facilities in a source category designated by EPA as subject to the requirements of 40 CFR Part 70.

(b) This Section does not apply to minor facilities with sources subject to requirements of MCAPCO Regulation 2.0524 - "New Source Performance Standards", 2.1110 - "National Emission Standards For Hazardous Air Pollutants" or 2.1111 - "Maximum Achievable Control Technology" or 40 CFR Part 60, 61, or 63 until EPA requires these facilities to have a permit under 40 CFR Part 70.

(c) A facility shall not be required to obtain a permit under this Section on the sole basis of its greenhouse gas emissions.

(d) Once a facility is subject to this Section because of emissions of one pollutant, the owner or operator of that facility shall submit an application that includes all sources of all regulated air pollutants located at the facility except for insignificant activities because of category.

State History Note:

*Filed as a Temporary Adoption Eff. March 8, 1994 for a period of 180 days or until the permanent rule becomes effective, whichever is sooner;
Authority G.S. 143-215.3(a)(1); 143-215.107(a)(10); 143-215.108;
Eff. July 1, 1994;
Amended Eff. September 1, 2015, July 1, 1999; July 1, 1996.*

MCAQ History Note:

Amended Eff. December 15, 2015

1.5503 DEFINITIONS

For the purposes of this Section, the definitions in G.S. 143-212 and 143-213 and the following definitions apply:

- (1) **"Affected States"** means all states or local air pollution control agencies whose areas of jurisdiction are:
 - (A) contiguous to North Carolina and located less than $D=Q/12.5$ from the facility, where:
 - (i) Q = emissions of the pollutant emitted at the highest permitted rate in tons per year, and
 - (ii) D = distance from the facility to the contiguous state or local air pollution control agency in miles unless the applicant can demonstrate to the satisfaction of the Director that the ambient impact in the contiguous states or local air pollution control agencies is less than the incremental ambient

levels in MCAPCO Regulation 2.0532 - “Sources Contributing to an Ambient Violation” Subparagraph (c)(5);

or

(B) within 50 miles of the permitted facility.

- (2) **“Complete Application”** means an application that provides all information described under 40 CFR 70.5(c) and such other information that is necessary to determine compliance with all applicable requirements.
- (3) **“Draft Permit”** means the version of a permit for which the Department offers public participation under MCAPCO Regulation 1.5521 - “Public Participation” or affected State review under MCAPCO Regulation 1.5522 - “Review By EPA and Affected States”.
- (4) **“Emissions Allowable Under the Permit”** means a federally enforceable permit term or condition determined at issuance to be an applicable requirement that establishes an emissions limit (including a work practice standard) or a federally enforceable emissions cap that the facility has assumed to avoid an applicable requirement to which the facility would otherwise be subject.
- (5) **“Final Permit”** means the version of a permit that the Director issues that has completed all review procedures required under this Section if the permittee does not file a petition under Article 3 of G.S. 150B.
- (6) **“Fugitive Emissions”** means those emissions which could not reasonably pass through a stack, chimney, vent, or other functionally-equivalent opening.
- (7) **“Insignificant Activities because of Category”** means:
 - (A) mobile sources;
 - (B) air-conditioning units used for human comfort that are not subject to applicable requirements under Title VI of the federal Clean Air Act and do not exhaust air pollutants into the ambient air from any manufacturing or other industrial process;
 - (C) ventilating units used for human comfort that have a heat input of less than 10,000,000 Btu per hour and that do not exhaust air pollutants into the ambient air from any manufacturing or other industrial process;
 - (D) heating units used for human comfort that do not provide heat for any manufacturing or other industrial process;
 - (E) noncommercial food preparation;
 - (F) consumer use of office equipment and products;
 - (G) janitorial services and consumer use of janitorial products;
 - (H) internal combustion engines used for landscaping purposes;
 - (I) new residential wood heaters subject to 40 CFR Part 60, Subpart AAA; and
 - (J) demolition and renovation activities covered solely under 40 CFR Part 61, Subpart M.
- (8) **“Insignificant Activities because of Size or Production Rate”** means any activity whose emissions would not violate any applicable emissions standard and whose potential emission of particulate, sulfur dioxide, nitrogen oxides, volatile organic compounds, and carbon monoxide before air pollution control devices, i.e., potential uncontrolled emissions, are each no more than five tons per year and whose potential emissions of hazardous air pollutants before air pollution control devices, are each below 1,000 pounds per year.
- (9) **“Minor Facility”** means any facility that is not a major facility.

- (10) **“Operation”** means the utilization of equipment that emits regulated pollutants.
- (11) **“Permit Renewal”** means the process by which a permit is reissued at the end of its term.
- (12) **“Permit Revision”** means any permit modification under MCAPCO Regulations 1.5515 - “Minor Permit Modifications”, 1.5516 - “Significant Permit Modification”, or 1.5517 - “Reopening For Cause” or any administrative permit amendment under MCAPCO Regulation 1.5514 - “Administrative Permit Amendments”.
- (13) **“Proposed Permit”** means the version of a permit that the Director proposes to issue and forwards to EPA for review under MCAPCO Regulation 1.5522 - “Review By EPA and Affected States”.
- (14) **“Relevant Source”** means only those sources that are subject to applicable requirements.
- (15) **“Responsible Official”** means a responsible official as defined under 40 CFR 70.2.
- (16) **“Section 502(b)(10) Changes”** means changes that contravene an express permit term or condition. Such changes do not include changes that would violate applicable requirements or contravene federally enforceable permit terms and conditions that are monitoring (including test methods), recordkeeping, reporting, or compliance certification requirements.
- (17) **“Synthetic Minor Facility”** means a facility that would otherwise be required to follow the procedures of MCAPCO Section 1.5500 - “Title V Procedures” except that the potential to emit is restricted by one or more federally enforceable physical or operational limitations, including air pollution control equipment and restrictions on hours of operation, the type or amount of material combusted, stored, or processed, or similar parameters.
- (18) **“Timely”** means:
 - (A) for initial permit submittals under MCAPCO Regulation 1.5506 - “Initial Permit Application Submittal”, before the end of the time period specified for submittal of an application for the respective Standard Industrial Classification;
 - (B) for a new facility, one year after commencing operation;
 - (C) for renewal of a permit previously issued under this Section, nine months before the expiration of that permit;
 - (D) for a minor modification under MCAPCO Regulation 1.5515 - “Minor Permit Modifications”, before commencing the modification;
 - (E) for a significant modification under MCAPCO Regulation 1.5516 - “Significant Permit Modification” where the change would not contravene or conflict with a condition in the existing permit, 12 months after commencing operation;
 - (F) for reopening for cause under MCAPCO Regulation 1.5517 - “Reopening For Cause”, as specified by the Director in the request for additional information by the Director;
 - (G) for requests for additional information, as specified by the Director in the request for additional information by the Director; or
 - (H) for modifications made under Section 112(j) of the federal Clean Air Act, 18 months after EPA fails to promulgate a standard for that category of source under Section 112 of the federal Clean Air Act by the date established pursuant to Section 112(e)(1) or (3) of the federal Clean Air Act.

*History Note: Filed as a Temporary Adoption Eff. March 8, 1994 for a period of 180 days or until the permanent rule becomes effective, whichever is sooner;
 Authority G.S. 143-215.3(a)(1); 143-212; 143-213;*

*Eff. July 1, 1994;
Amended Eff. January 1, 2007; July 1, 2000; July 1, 1996.*

1.5504 OPTION FOR OBTAINING CONSTRUCTION AND OPERATION PERMIT

(a) Pursuant to MCAPCO Regulation 1.5501 - "Purpose of Section and Requirement for a Permit" Paragraph (c) or Subparagraph (d)(2), the owner or operator of a new or modified facility subject to the requirements of this Section that chooses to obtain a construction and operation permit before the facility must obtain a permit under this Section may file an application under MCAPCO Section 1.5200 - "Air Quality Permits".

(b) The applicant shall state in his permit application that he wishes to follow the procedures under this Regulation.

(c) If the option allowed under MCAPCO Regulation 1.5501 - "Purpose of Section and Requirement for a Permit" Subparagraph (c)(1) is used, then the application processing procedures for prevention of significant deterioration under MCAPCO Regulation 2.0530 - "Prevention of Significant Deterioration" and new source review for nonattainment areas under MCAPCO Regulation 2.0531 - "Sources in Non-Attainment Areas" do not apply. If the option allowed under MCAPCO Regulation 1.5501 - "Purpose of Section and Requirement for a Permit" Subparagraph (c)(2) is used, then the application processing procedures in this Section and:

- (1) under MCAPCO Regulation 2.0530 - "Prevention of Significant Deterioration" for prevention of significant deterioration, or
- (2) under MCAPCO Regulation 2.0531 - "Sources in Non-Attainment Areas" for new source review for nonattainment areas, shall apply.

(d) If the procedures under MCAPCO Section 1.5200 - "Air Quality Permits" are followed, the permittee shall have one year from the date of beginning operation of the facility or source to file an amended application following the procedures of this Section. The Director shall place a condition in the construction and operation permit stating this requirement.

1.5505 APPLICATION SUBMITTAL CONTENT

If an applicant does not submit, at a minimum, the following information with is application package, the application package shall be returned:

- (1) for new facilities and modified facilities:
 - (A) an application fee as required under MCAPCO Regulation 1.5321 - "Air Quality Fees",
 - (B) a consistency determination as required under MCAPCO Regulation 1.5507 - "Application" Subparagraph (d)(1),
 - (C) the documentation required under MCAPCO Regulation 1.5507 - "Application" Subparagraph (d)(2),
 - (D) a financial qualification or substantial compliance statement if required, and
 - (E) applications as required under MCAPCO Regulation 1.5507 - "Application" Paragraphs (a) and (e) and signed as required by MCAPCO Regulation 1.5520

- “Certification By Responsible Official”;
- (2) for renewals: applications as required under MCAPCO Regulation 1.5507 - “Application” Paragraphs (a) and (e) and signed as required by MCAPCO Regulation 1.5520 - “Certification By Responsible Official”;
- (3) for a name change: three copies of a letter signed by the a responsible official in accordance with MCAPCO Regulation 1.5520 - “Certification By Responsible Official”; indicating the current facility name, the date on which the name change shall occur, and the new facility name;
- (4) for an ownership change: a permit processing fee for administrative changes as required under MCAPCO Regulation 1.5231 - “Air Quality Fees”, and:
 - (A) three copies of a letter sent by each the seller and the buyer indicating the change,
 - or
 - (B) three copies of a letter sent by either bearing the signature of both the seller and buyer, and containing a written agreement with a specific date for the transfer of permit responsibility, coverage, and liability between the current and new permittee;and
- (5) for corrections of typographical errors; changes name, address, or telephone number of any individual identified in the permit; changes in test dates or construction dates; or similar minor changes: three copies of a letter signed by a responsible official in accordance with MCAPCO Regulation 1.5520 - “Certification By Responsible Official” describing the proposed change and explaining the need for the proposed change.

*History Note: Filed as a Temporary Rule Eff. March 8, 1994 for a Period of 180 Days or Until the Permanent Rule is Effective, Whichever is Sooner;
Authority G.S. 143-215.3(a)(1); 143-215.107(a)(10); 143-215.108;
Eff. July 1,1994;
Amended Eff. April 1, 2004*

1.5506 INITIAL PERMIT APPLICATION SUBMITTAL (REPEALED)

1.5507 APPLICATION

(a) Except for:

- (1) minor permit modifications covered under MCAPCO Regulation 1.5515 - "Minor Permit Modifications",
- (2) significant modifications covered under MCAPCO Regulation 1.5516 - "Significant Permit Modification" Paragraph (c),
or
- (3) permit applications submitted under MCAPCO Regulation 1.5506 - Initial Permit Application Submittal",

the owner or operator of a source shall have one year from the date of beginning of operation of the source to file a complete application for a permit or permit revision. However, the owner or operator of the source shall not begin construction or operation until he has obtained a construction and operation permit pursuant to MCAPCO Regulation 1.5501 - "Purpose of Section and Requirement for a Permit" Paragraph (c) or (d) and MCAPCO Regulation 1.5504 - "Option For Obtaining Construction and Operation Permit".

(b) The application shall include all the information described in 40 CFR 70.3(d) and 70.5(c), including a list of insignificant activities because of size or production rate; but not including insignificant activities because of category. The application form shall be certified by a responsible official for truth, accuracy, and completeness. In the application submitted pursuant to this Regulation, the applicant may attach copies of applications submitted pursuant to MCAPCO Section 1.5400 - "Acid Rain Procedures" or MCAPCO Regulation 2.0530 - "Prevention of Significant Deterioration" or Regulation 2.0531 - "Sources in Nonattainment Areas", provided the information in those applications contains information required in this Section and is current, valid, and complete.

(c) Application for a permit, permit revision, or permit renewal shall be made in accordance with MCAPCO Regulation 1.5504 - "Option For Obtaining Construction and Operation Permit" on forms of the Department and shall include plans and specifications giving all necessary data and information as required by this Regulation. Whenever the information provided on these forms does not describe the source or its air pollution abatement equipment to the extent necessary to evaluate the application, the Director may request that the applicant provide any other information that the Director considers necessary to evaluate the source and its air pollution abatement equipment.

(d) Along with filing a complete application form, the applicant shall also file the following:

- (1) for a new facility or an expansion of existing facility, a consistency determination in accordance with G.S. 143-215.108(f) that:
 - (A) bears the date of receipt entered by the clerk of the local government,
or
 - (B) consists of a letter from the local government indicating that all zoning or subdivision ordinances are met by the facility;
- (2) for a new facility or an expansion of an existing facility in an area without zoning, an

affidavit and proof of publication of a legal notice as required under MCAPCO Regulation 1.5216 - "Notification in Areas Without Zoning", and

- (3) if required by the Director, information showing that:
 - (A) the applicant is financially qualified to carry out the permitted activities,
or
 - (B) the applicant has substantially complied with the air quality and emissions standards applicable to any activity in which the applicant has previously been engaged, and has been in substantial compliance with federal and state environmental laws and Rules.

(e) The applicant shall submit copies of the application package as follows:

- (1) for sources subject to the requirements of MCAPCO Regulation 2.0530 - "Prevention of Significant Deterioration" or Regulation 2.0531 - "Sources in Nonattainment Areas", or MCAPCO Section 2.1200 - "Control of Emissions From Incinerators", three copies;
- (2) for sources not subject to the requirements of MCAPCO Regulation 2.0530 - "Prevention of Significant Deterioration" or Regulation 2.0531 - "Sources in Nonattainment Areas", or MCAPCO Section 2.1200 - "Control of Emissions From Incinerators", two copies.

If the facility requests that any information be considered confidential, a "Public Record Copy" must also be submitted. Information considered confidential is governed by North Carolina General Statute (NCGS) 66-152 and MCAPCO Regulation 1.5217 - "Confidential Information". If the facility believes that any information included in the application constitutes a "trade secret" as defined by NCGS. 66-152, and that it meets the other conditions imposed by NCGS Statute 132-1.2, such information may be designated as "confidential information" or "trade secret" in the application and omitted from the copy marked as the "Public Record Copy". Every place where confidential information is omitted in the Public Record Copy, it must be indicated as "[Trade Secret Information Deleted]". If an application with information marked as "confidential" or "trade secret" is submitted without the additional Public Record Copy or if information that is clearly not a trade secret is omitted from the Public Record Copy, the application package may be returned to the applicant without being processed.

The Director may at any time during the application process request additional copies of the complete application package from the applicant.

(f) Any applicant who fails to submit any relevant facts or who has submitted incorrect information in a permit application shall, upon becoming aware of such failure or incorrect submittal, submit, as soon as possible, such supplementary facts or corrected information. In addition, an applicant shall provide additional information as necessary to address any requirements that become applicable to the source after the date he filed a complete application but prior to release of a draft permit.

(g) The applicant shall submit the same number of copies of additional information as required for the application package.

(h) The submittal of a complete permit application shall not affect the requirement that any facility have a preconstruction permit under MCAPCO Regulation 2.0530 - "Prevention of Significant Deterioration" or Regulation 2.0531 - "Sources in Nonattainment Areas", or under MCAPCO Section 1.5400 - Acid Rain Procedures".

(i) The Director shall give priority to permit applications containing early reduction demonstrations under Section 112(i)(5) of the federal Clean Air Act. The Director shall take final action on such permit applications as soon as practicable after receipt of the complete permit application.

(j) With the exception of permit changes initiated by the Director, a non-refundable permit application processing fee shall accompany each application. No permit application processing fee is required for changes initiated by the Director to an unexpired permit to correct processing errors, change permit conditions, or to implement new standards. The permit application processing fees are defined in MCAPCO Section 1.5200 - "Air Quality Permits". Each permit or renewal application is incomplete until the permit application processing fee is received.

(k) The applicant shall retain for the duration of the permit term one complete copy of the application package and any information submitted in support of the application package.

MCAQ History Note:

Amended Eff. December 15, 2015

1.5508 PERMIT CONTENT

(a) The permit shall specify and reference the origin and authority for each term or condition and shall identify any differences in form as compared to the applicable requirement on which the term or condition is based.

(b) The permit shall specify emission limitations and standards, including operational requirements and limitations, that assure compliance with all applicable requirements at the time of permit issuance.

(c) Where an applicable requirement of the federal Clean Air Act is more stringent than an applicable requirement of rules promulgated pursuant to Title IV, both provisions shall be placed in the permit. The permit shall state that both provisions are enforceable by EPA.

(d) The permit for sources using an alternative emission limit established under MCAPCO Regulation 2.0501 - "Compliance With Emission Control Standards" Paragraph (f) or 2.0952 - "Petition For Alternative Controls" shall contain provisions to ensure that any resulting emissions limit has been demonstrated to be quantifiable, accountable, enforceable, and based on replicable procedures.

(e) The expiration date contained in the permit shall be for a fixed term of five years for sources covered under Title IV and for a term of no more than five years from the date of issuance for all other sources including solid waste incineration units combusting municipal waste subject to standards under Section 129(e) of the federal Clean Air Act.

(f) The permit shall contain monitoring and related recordkeeping and reporting requirements as specified in 40 CFR 70.6(a)(3) and 70.6(c)(1) including conditions requiring:

- (1) the permittee to submit reports of any required monitoring at least every six months.
The permittee shall submit reports:
 - (A) on forms obtained from the Department,
 - (B) in a manner as specified by a permit condition, or
 - (C) on other forms that contain the information required by these Regulations or as specified by a permit condition; and
- (2) the permittee to report:
 - (A) malfunctions, emergencies, and other upset conditions as prescribed in MCAPCO Regulation 2.0524 - "New Source Performance Standards", 2.0535 - "Excess Emissions Reporting and Malfunctions", 2.1110 - "National Emission Standards for Hazardous Air Pollutants" or 2.1111 - "Maximum Achievable Control Technology";
 - (B) deviations quarterly from permit requirements not covered under MCAPCO Regulation 2.0524 - "New Source Performance Standards", 2.0535 - "Excess Emissions Reporting and Malfunctions", 2.1110 - "National Emission Standards for Hazardous Air Pollutants" or 2.1111 - "Maximum Achievable Control Technology". The permittee shall include the probable cause of such deviation and any corrective actions or preventive measures taken.
- (3) the responsible official to certify all deviations from permit requirements.

(g) At the request of the permittee, the Director shall allow records to be maintained in computerized form in lieu of maintaining paper records if computerized records contain the same information as the paper records would contain.

(h) The permit for facilities covered under MCAPCO Section 2.2100 - "Risk Management Program", shall contain:

- (1) a statement listing MCAPCO Section 2.2100 - "Risk Management Program" as an applicable requirement;
- (2) conditions that require the owner or operator of the facility to submit:
 - (A) a compliance schedule for meeting the requirements of MCAPCO Section 2.2100 - "Risk Management Plan" by the dates provided in MCAPCO Regulation 2.2101 - "Applicability" Paragraph (a); or
 - (B) as part of the compliance certification under Paragraph (t) of this Regulation, a certification statement that the source is in compliance with all requirements of MCAPCO Section 2.2100 - "Risk Management Plan", including the registration and submission of the risk management plan.

The content of the risk management plan need not itself be incorporated as a permit term or condition.

(i) The permit shall:

- (1) contain a condition prohibiting emissions exceeding any allowances that a facility lawfully holds under Title IV; but shall not limit the number of allowances held by a permittee, but the permittee may not use allowances as a defense to noncompliance with any other applicable requirement;
- (2) contain a severability clause so that various permit requirements will continue to be valid in the event of a challenge to any other portion of the permit;
- (3) state that noncompliance with any condition of the permit is grounds for enforcement action; for permit termination, revocation and reissuance, or modification; or for denial of a permit renewal application;
- (4) state that the permittee may not use as a defense in an enforcement action that it would have been necessary to halt or reduce the permitted activity in order to maintain compliance with the conditions of the permit;
- (5) state that the Director may reopen, modify, revoke and reissue, or terminate the permit for reasons specified in MCAPCO Regulations 1.5517 - "Reopening for Cause" or 1.5519 - "Termination, Modification, Revocation of Permits";
- (6) state that the filing of a request by the permittee for a permit revision, revocation and reissuance, or termination, notification of planned changes, or anticipated noncompliance does not stay any permit condition;
- (7) specify the condition under which the permit shall be reopened before the expiration of the permit;
- (8) state that the permit does not convey any property rights of any sort, or any exclusive privileges;
- (9) state that the permittee shall furnish to the Department, in a timely manner;
 - (A) any reasonable information that the Director may request in writing to

determine whether cause exists for modifying, revoking and reissuing, or terminating the permit or to determine compliance with the permit, and

- (B) copies of records required to be kept by the permit when such copies are requested by the Director.

(For information claimed to be confidential, the permittee may furnish such records directly to EPA along with a claim of confidentiality.)

- (10) contain a provision to ensure that the permittee pays fees required under MCAPCO Section 1.5200 - "Air Quality Permits";
- (11) contain a condition that authorizes the permittee to make Section 502(b)(10) changes, off-permit changes, or emission trades in accordance with MCAPCO Regulation 1.5523 - "Changes Not Requiring Permit Revisions";
- (12) include all applicable requirements for all sources covered under the permit;
- (13) include fugitive emissions, if regulated, in the same manner as stack emissions;
- (14) contain a condition requiring annual reporting of actual emissions as required under MCAPCO Regulation 1.5111 - "General Recordkeeping, Reporting and Monitoring Requirements" Paragraph (e);
- (15) include all sources including insignificant activities; and
- (16) contain such other provisions as the Director considers appropriate.

(j) The permit shall state the terms and conditions for reasonably anticipated operating scenarios identified by the applicant in the application. These terms and conditions shall:

- (1) require the permittee, contemporaneously with making a change from one operating scenario to another, to record in a log at the permitted facility a record of the operating scenario under which it is operating;
- (2) extend the permit shield described in MCAPCO Regulation 1.5512 - "Permit Shield and Application Shield" to all terms and conditions under each such operating scenario; and
- (3) ensure that each operating scenario meets all applicable requirements of MCAPCO Article 2.0000 - "Air Pollution Control Regulations and Procedures" and of this Section.

(k) The permit shall identify which terms and conditions are enforceable by:

- (1) both EPA and the Department,
- (2) the Department only,
- (3) by EPA only, and
- (4) citizens under the federal Clean Air Act.

(l) The permit shall state that the permittee shall allow personnel of the Department to:

- (1) enter the permittee's premises where the permitted facility is located or emissions-related activity is conducted, or where records are kept under the conditions of the permit;
- (2) have access to and copy, at reasonable times, any records that are required to be kept under the conditions of the permit;
- (3) inspect at reasonable times and using reasonable safety practices any source, equipment (including monitoring and air pollution control equipment), practices, or

- operations regulated or required under the permit; and
- (4) sample or monitor substances or parameters, using reasonable safety practices, for the purpose of assuring compliance with the permit or applicable requirements at reasonable times.

(m) When a compliance schedule is required under 40 CFR 70.5(c)(8) or under a Regulation contained in MCAPCO Article 2.0000 - "Air Pollution Control Regulations and Procedures", the permit shall contain the compliance schedule and shall state that the permittee shall submit at least semiannually, or more frequently if specified in the applicable requirement, a progress report.

The progress report shall contain:

- (1) dates for achieving the activities, milestones, or compliance required in the compliance schedule, and dates when such activities, milestones, or compliance were achieved; and
- (2) an explanation of why any dates in the compliance schedule were not or will not be met, and any preventive or corrective measures adopted.

(n) The permit shall contain requirements for compliance certification with the terms and conditions in the permit that are enforceable by EPA under Title V of the federal Clean Air Act, including emissions limitations, standards, or work practices. The permit shall specify:

- (1) the frequency (not less than annually or more frequently as specified in the applicable requirements or by the Director) of submissions of compliance certifications;
- (2) a means for monitoring the compliance of the source with its emissions limitations, standards, and work practices;
- (3) a requirement that the compliance certification include:
 - (A) the identification of each term or condition of the permit that is the basis of the certification;
 - (B) the status of compliance with the terms and conditions of the permit for the period covered by the certification, based on the methods or means designated in 40 CFR 70.6(c)(5)(iii)(B). The certification shall identify each deviation and take it into account in the compliance certification. The certification shall also identify as possible exceptions to compliance any periods during which compliance is required and in which an excursion or exceedance as defined under 40 CFR 64 occurred;
 - (C) whether compliance was continuous or intermittent;
 - (D) the identification of the method(s) or other means used by the owner and operator for determining the compliance status with each term and condition during the certification period; these methods shall include the methods and means required under 40 CFR Part 70.6(a)(3); and
 - (E) such other facts as the Director may require to determine the compliance status of the source
- (4) that all compliance certifications be submitted to EPA as well as to the Department.

History Note: Filed as a Temporary Adoption Eff. March 8, 1994 for a period of 180 days or until the permanent rule becomes effective, whichever is sooner;

*Authority G.S. 143-215.3(a)(1); 143-215.65; 143-215.66; 143-215.107(a)(10); 143-215.108;
Eff. July 1, 1994;
Amended Eff. January 1, 2007; December 1, 2005, April 1, 2001; July 1, 2000;
July 1, 1996.*

1.5509 PERMITTING OF NUMEROUS SIMILAR FACILITIES

(a) The Director may issue, after notice and opportunity for public participation provided in MCAPCO Regulation 1.5521 - "Public Participation", a permit to cover numerous similar facilities or sources.

(b) The Director shall not issue a permit under this Regulation unless the following conditions are met:

- (1) There is no unique difference that would require special permit conditions for any individual facility; and
- (2) No unique analysis is required for any facility covered under the permit.

(c) A permit issued under this Regulation shall comply with all the requirements of this Section.

(d) A permit issued under this Regulation shall identify criteria by which facilities or sources may qualify for the permit. To facilities or sources that qualify, the Director shall grant the terms and conditions of the permit.

(e) The facility or source shall be subject to enforcement action for operating without a permit if the facility or source is later determined not to qualify for the terms and conditions of the permit issued under this Regulation.

(f) Sources subject to Title IV shall not be eligible for a permit issued under this Regulation.

(g) The owner or operator of a facility or source that qualifies for a permit issued under this Regulation shall apply for coverage under the terms of the permit issued under this Regulation or shall apply for a regular permit under this Section.

(h) The Department need not repeat the public participation procedures required under MCAPCO Regulation 1.5521 - "Public Participation" when it grants a request by a permit applicant to operate under a permit issued under this Regulation.

1.5510 PERMITTING OF FACILITIES AT MULTIPLE TEMPORARY SITES

(a) The Director may issue a single permit authorizing emissions from similar operations by the same facility owner or operator at multiple temporary sites.

(b) In order for a facility to qualify for a permit for multiple temporary sites under this Regulation, the operation must involve at least one change of site during the term of the permit.

(c) Sources subject to Title IV shall not be eligible for a permit under this Section.

(d) Permits for facilities at multiple temporary sites shall include:

- (1) identification of each site;
- (2) conditions that will assure compliance with all applicable requirements at all authorized locations;
- (3) requirements that the permittee notify the Department at least 10 days in advance of each change of location;
and
- (4) conditions that assure compliance with all other provisions of this Section.

1.5511 SYNTHETIC MINOR FACILITIES (REPEALED) [SEE MCAPCO 1.5236]**1.5512 PERMIT SHIELD AND APPLICATION SHIELD**

(a) Permit Shield:

- (1) The Director shall place in a permit issued under this Section a permit term or condition (a permit shield) stating that compliance with the conditions of the permit shall be deemed in compliance with applicable requirements specifically identified in the permit in effect as of the date of permit issuance, provided that:
 - (A) such applicable requirements are included and are specifically identified in the permit;
or
 - (B) the Director, in acting on the permit application or revision, determines in writing that other requirements specifically identified are not applicable to the source, and the permit includes the determination or a concise summary thereof.
- (2) A permit that does not expressly state that a permit shield exists shall be presumed not to provide such a shield.
- (3) A permit shield shall not alter or affect:
 - (A) the power of the Department or EPA under Section 303 of the federal Clean Air Act;
 - (B) the liability of an owner or operator of a facility for any violation of applicable requirements prior to the effective date of the permit or at the time of permit issuance;
 - (C) the applicable requirements under Title IV;
or
 - (D) the ability of the Director (or EPA under Section 114 of the federal Clean Air

Act) to obtain information to determine compliance of the facility with its permit, this Section, or MCAPCO Article 2.0000.

- (4) A permit shield shall not apply to any change made at a facility that does not require a permit revision.
- (5) A permit shield shall not extend to minor permit modifications made under MCAPCO Regulation 1.5515 - "Minor Permit Modification".

(b) Application Shield.

- (1) Except as provided in Subparagraph (b)(2) of this Regulation, if the applicant submits a timely and complete application for permit issuance (including for renewal), the facility's failure to have a permit under this Section shall not be a violation:
 - (A) unless the delay in final action is due to the failure of the applicant's timely submission of information as required or requested by the Director, or
 - (B) until the Director takes final action on the permit application.
- (2) Subparagraph (b)(1) of this Regulation shall cease to apply if, subsequent to the completeness determination made under MCAPCO Regulation 1.5507 - "Application", the applicant fails to submit by the deadline specified in writing by the Director, any additional information identified as being needed to process the application.

History Note: Filed as a Temporary Adoption Eff. March 8, 1994 for a period of 180 days or until the permanent rule is effective, whichever is sooner; Authority G.S. 143-215.3(a)(1); 143-215.107(a)(10); 143-215.108; Eff. July 1, 1997.

1.5513 PERMIT RENEWAL AND EXPIRATION

- (a) Permits being renewed are subject to the procedural requirements of this Section, including those for public participation and affected State and EPA review.
- (b) Permit expiration terminates the facility's right to operate unless a complete renewal application has been submitted at least nine months before the date of permit expiration.
- (c) If the permittee or applicant has complied with MCAPCO Regulation 1.5512 - "Permit Shield and Application Shield" Subparagraph (b)(1), the existing permit shall not expire until the renewal permit has been issued or denied. All terms and conditions of the existing permit shall remain in effect until the renewal permit has been issued or denied.

1.5514 ADMINISTRATIVE PERMIT AMENDMENTS

- (a) An “administrative permit amendment” means a permit revision and that:
- (1) corrects typographical errors;
 - (2) identifies a change in the name, address or telephone number of any individual identified in the permit, or provides a similar minor administrative change at the facility;
 - (3) requires more frequent monitoring or reporting by the permittee;
 - (4) changes in test dates provided that no applicable requirements are violated by the change in test dates or construction dates;
 - (5) moves terms and conditions from the Mecklenburg County-enforceable only portion of a permit to the Mecklenburg County-and-federal-enforceable portion of the permit provided that terms and conditions being moved have become federally enforceable through Section 110, 111, or 112 or other parts of the federal Clean Air Act;
 - (6) moves terms and conditions from the federal-enforceable only portion of a permit to the Mecklenburg County-and-federal-enforceable portion of the permit; or
 - (7) changes the permit number without changing any portion of the permit that is federally enforceable that would not otherwise qualify as an administrative amendment.
- (b) In making administrative permit amendments, the Director:
- (1) shall take final action on a request for an administrative permit amendment within 60 days after receiving such request,
 - (2) may make administrative amendments without providing notice to the public or any affected State(s) provided he designates any such permit revision as having been made pursuant to this Regulation,
and
 - (3) shall submit a copy of the revised permit to EPA.
- (c) The permittee may implement the changes addressed in the request for an administrative amendment immediately upon submittal of the request.
- (d) Upon taking final action granting a request for an administrative permit amendment, the Director shall allow coverage by the permit shield under MCAPCO Regulation 1.5512 - “Permit Shield and Application Shield” for the administrative permit amendments made.
- (e) Administrative amendments for sources covered under Title IV shall be governed by Regulations in MCAPCO Section 1.5400 - “Acid Rain Procedures”.
- (f) This Rule shall not be used to make changes to the Mecklenburg County-enforceable only part of a Title V permit. For the Mecklenburg County-enforceable only part of a Title V permit, MCAPCO Section 1.5200 – “Air Quality Permits” shall be used for administrative permit amendments.

History Note: Filed as a Temporary Adoption Eff. March 8, 1994 for a period of 180 days or until the permanent rule is effective, whichever is sooner;

*Authority G.S. 143-215.3(a)(1); 143-215.107(a)(10); 143-215.108;
Eff. July 1, 1994;
Amended Eff. January 1, 2007; July 1, 1997.*

1.5515 MINOR PERMIT MODIFICATIONS

(a) The procedures set out in this Regulation may be used for permit modifications when the modifications:

- (1) do not violate any applicable requirement;
- (2) do not involve significant changes to existing monitoring, reporting, or recordkeeping requirements in the permit;
- (3) do not require or change a case-by-case determination of an emission limitation or other standard, or a source-specific determination for temporary sources of ambient impacts, or a visibility or increment analysis;
- (4) do not seek to establish or change a permit term or condition for which there is no corresponding underlying applicable requirement and that the facility has assumed to avoid an applicable requirement to which the facility would otherwise be subject. Such terms and conditions include:
 - (A) a federally enforceable emissions cap assumed to avoid an applicable requirement under any provision of Title I of the federal Clean Air Act; or
 - (B) an alternative emissions limit approved as part of an early reduction plan submitted pursuant to Section 112(i)(5) of the federal Clean Air Act;
- (5) are not modifications under any provision of Title I of the federal Clean Air Act; and
- (6) are not required to be processed as a significant modification under MCAPCO Regulation 1.5516 - "Significant Permit Modification".

(b) In addition to the items required under MCAPCO Regulation 1.5505 - "Application Submittal Content", an application requesting the use of the procedures set out in this Regulation shall include:

- (1) an application form including:
 - (A) a description of the change,
 - (B) the emissions resulting from the change, and
 - (C) identification of any new applicable requirements that will apply if the change occurs;
- (2) a list of the facility's other pending applications awaiting group processing and a determination of whether the requested modification, aggregated with these other applications, equals or exceeds the thresholds set out under Subparagraphs (c)(1) through (3) of this Regulation;
- (3) the applicant's suggested draft permit;
- (4) certification by a responsible official that the proposed modification meets the criteria for using the procedures set out in this Regulation and a request that these procedures be used;
and
- (5) complete information for the Director to use to notify EPA and affected States.

(c) The Director shall use group processing for minor permit modifications processed under this

Regulation. The Director shall notify EPA and affected States of the requested permit revisions under this Regulation and shall provide the information specified in MCAPCO Regulation 1.5522 - “Review by EPA and Affected States” on a quarterly basis. If the aggregated emissions from all pending minor permit modifications equal or exceed:

- (1) 10 percent of the emissions allowed for the source for which the change is requested,
- (2) 20 percent of the applicable definition of major facility,
- or
- (3) five tons per year,

then the Director shall notify EPA and affected States within five business days of the requested permit revision under this Regulation and shall provide the information specified in MCAPCO Regulation 1.5522 - “Review by EPA and Affected States”.

(d) Within 90 days after receiving a complete application that causes the thresholds in Paragraphs (c)(1), (2), or (3) of this Regulation to be exceeded or 15 days after the end of EPA’s 45-day review period, whichever is later, the Director shall:

- (1) issue the permit modification as proposed;
- (2) deny the permit modification application;
- (3) determine that the requested modification does not qualify for the procedures set out in this Regulation and should therefore, be processed under MCAPCO Regulation 1.5516 - “Significant Permit Modification”;
- (4) revise the draft permit modification and transmit the proposed permit to EPA.

(e) If the thresholds in Paragraphs (c)(1), (2), and (3) of this Regulation are not exceeded, the Director shall, within 180 days after receiving a completed application for a permit modification or 15 days after the end of EPA’s 45-day review period, whichever is later:

- (1) issue the permit modification as proposed;
- (2) deny the permit modification application;
- (3) determine that the requested modification does not qualify for the procedures set out in this Regulation and should therefore, be processed under MCAPCO Regulation 1.5516 - “Significant Permit Modification”;
- (4) revise the draft permit modification and transmit the proposed permit to EPA.

(f) The permit applicant may make the change proposed in his minor permit modification application immediately after filing the completed application with the Department. After the applicant makes the change, the facility shall comply with both the applicable requirements governing the change and the proposed permit terms and conditions until the Director takes one of the final actions specified in Subparagraphs (d)(1) through (d)(4) of this Regulation. Between the filing of the permit modification application and the Director’s final action, the facility need not comply with the existing permit terms and conditions it seeks to modify. However, if the facility fails to comply with its proposed permit terms and conditions during this time period, the Director may enforce the terms and conditions of the existing permit that the applicant seeks to modify.

(g) The permit shield allowed under MCAPCO Regulation 1.5512 - “Permit Shield and Application Shield” shall not extend to minor permit modifications.

(h) If the Mecklenburg County-enforceable only portion of the permit is revised, the procedures in MCAPCO Section 1.5200 - "Air Quality Permits" shall be followed.

(i) The proceedings shall affect only those parts of the permit related to the modification.

*History Note: Filed as a Temporary Adoption Eff. March 8, 1994 for a period of 180 days or until the permanent rule is effective, whichever is sooner;
Authority G.S. 143-215.3(a)(1); 143-215.107(a)(10); 143-215.108;
Eff. July 1, 1994;
Amended Eff. July 1, 1997.*

1.5516 SIGNIFICANT PERMIT MODIFICATION

(a) The procedures set out in this Regulation shall be used for applications requesting permit modifications under this Regulation or permit modifications that do not qualify for MCAPCO Regulations 1.5514 - "Administrative Permit Amendments", 1.5515 - "Minor Permit Modifications", 1.5523 - "Changes Not Requiring Permit Revisions", or 1.5524 - "Ownership Change".

(b) Significant modifications include modifications that:

- (1) involve a significant change in existing monitoring permit terms or conditions or relax any reporting or recordkeeping permit terms or conditions;
- (2) require or change a case-by-case determination of an emissions limitation or other standard, or a source-specific determination for temporary sources of ambient impacts, or a visibility or increment analysis;
- (3) seek to establish or change a permit term or condition for which there is no corresponding underlying applicable requirement and that the facility has assumed to avoid an applicable requirement to which the facility would otherwise be subject;
- (4) are modifications under any provision of Article 1.0000 or Article 2.0000 or Title I of the federal Clean Air Act not processed under MCAPCO Regulations 1.5514 - "Administrative Permit Amendments", 1.5515 - "Minor Permit Modifications", 1.5523 - "Changes Not Requiring Permit Revisions", or 1.5524 - "Ownership Change".

(c) An application for a significant permit modification that would contravene or conflict with the existing permit shall be processed following the procedure set out in MCAPCO Regulation 1.5501 - "Purpose of Section and Requirement for a Permit" Paragraph (d).

(d) An application for a significant permit modification that does not contravene or conflict with the existing permit shall be processed following the procedure set out in MCAPCO Regulation 1.5501 - "Purpose of Section and Requirement for a Permit" Paragraph (c).

(e) This Regulation shall not preclude the permittee from making changes consistent with this Section that would render existing permit compliance terms and conditions irrelevant.

(f) Except for the Mecklenburg County-enforceable only portion of the permit, the procedures set out in MCAPCO Regulations 1.5507 - "Application", 1.5521 - "Public Participation", or 1.5522 - "Review by EPA And Affected States" shall be followed to revise a permit under this Regulation. If the Mecklenburg County-enforceable only portion of the permit is revised, the procedures in MCAPCO Section 1.5200 - "Air Quality Permits" shall be followed. The proceedings shall affect only those parts of the permit related to the significant modification.

(g) Significant permit modifications shall be covered under the permit shield in accordance with Regulation 1.5512 - "Permit Shield and Application Shield".

*History Note: Statutory Authority G.S. 143-215.3(a)(1);
143-215.107(a)(10); 143-215.108;
Eff. July 1, 1994.*

1.5517 REOPENING FOR CAUSE

(a) A permit shall be reopened and revised under the following circumstances:

- (1) Additional applicable requirements become applicable to a facility with a remaining permit term of three or more years;
- (2) Additional requirements (including excess emissions requirements) become applicable to a source covered by Title IV (Upon approval by EPA, excess emissions offset plans shall be deemed to be incorporated into the permit.);
- (3) The Director or EPA finds that the permit contains a material mistake or that inaccurate statements were made in establishing the emissions standards or other terms or conditions of the permit;
or
- (4) The Director or EPA determines that the permit must be revised or revoked to assure compliance with the applicable requirements.

(b) Any permit reopening under Subparagraph (a)(1) of this Regulation shall be completed or a revised permit issued within 18 months after the applicable requirement is promulgated: No reopening is required if the effective date of the requirement is after the expiration of the permit term unless the term of the permit was extended pursuant to MCAPCO Regulation 1.5513 - "Permit Renewal and Expiration" Paragraph (c).

(c) Except for the Mecklenburg County-enforceable only portion of the permit, the procedures set out in MCAPCO Regulations 1.5507 - "Application", 1.5521 - "Public Participation", or 1.5522 - "Review by EPA and Affected States" shall be followed to reissue a permit that has been reopened under this Regulation. If the Mecklenburg County enforceable only portion of the permit is reopened, the procedures in MCAPCO Section 1.5200 - "Air Quality Permits" shall be followed. The proceedings shall affect only those parts of the permit for which cause to reopen exists.

(d) The Director shall notify the permittee at least 60 days in advance of the date that the permit is to be reopened, except in cases of emergency the Director may notice the permittee in less than 60 days before reopening the permit. The notice shall explain why the permit is being reopened.

(e) Within 90 days, or 180 days if EPA extends the response period, after receiving notification from EPA that it finds that a permit needs to be terminated, modified, or revoked and reissued, the Director shall send to EPA a proposed determination of termination, modification, or revocation and reissuance, as appropriate.

History Note: Filed as a Temporary Adoption Eff. March 8, 1994 for a period of 180 days or until the permanent rule is effective, whichever is sooner; Authority G.S. 143-215.3(a)(1); 143-215.107(a)(10); 143-215.108; Eff. July 1, 1994; Amended Eff. July 1, 1997.

1.5518 FINAL ACTION

(a) The Director may:

- (1) issue a permit, permit revision, or a renewal containing the conditions necessary to carry out the purposes of G.S. Chapter 143, Article 21B and the federal Clean Air Act; or
- (2) rescind a permit upon request by the permittee; or
- (3) deny a permit application when necessary to carry out the purposes of G.S. Chapter 143, Article 21B and the federal Clean Air Act.

(b) The Director may not issue a final permit or permit revision, except administrative permit amendments covered under MCAPCO Regulation 1.5514 - "Administrative Permit Amendments", until EPA's 45-day review period has expired or until EPA has notified the Director that EPA will not object to issuance of the permit or permit revision, whichever occurs first. The Director shall issue the permit or permit revision within five days of receipt of notification from EPA that it will not object to issuance or of the expiration of EPA's 45-day review period, whichever occurs first.

(c) If EPA objects to a proposed permit, the Director shall respond to EPA's objection within 90 days after receipt of EPA's objection. The Director shall not issue a permit under this Section over EPA's objection.

(d) If EPA does not object in writing to the issuance of a permit, any person may petition EPA to make such objections by following the procedures and meeting the requirements under 40 CFR 70.8(d).

(e) No permit shall be issued, revised, or renewed under this Section unless all the procedures set out in this Section have been followed and all the requirements of this Section have been met.

Default issuance of a permit, permit revision, or permit renewal by the Director is prohibited.

(f) Thirty days after issuing a permit, including a permit issued pursuant to MCAPCO Regulation 1.5509 - "Permitting of Numerous Similar Facilities", that is not challenged by the applicant, the Director shall notice the issuance of the final permit. The notice shall be issued on the Mecklenburg County Air Quality web site at <http://airquality.charmeck.org>. The notice shall include the name and address of the facility and permit number.

History Note: Statutory Authority G.S. 143-215.3(a)(1); 143-215.107(a)(10); 143-215.108; Eff. March 16, 2011; July 1, 1994; Amended Eff. February 1, 1995.

1.5519 TERMINATION, MODIFICATION, REVOCATION OF PERMITS

(a) The Director may terminate, modify, or revoke and reissue a permit issued under this Section if:

- (1) the information contained in the application or presented in support thereof is determined to be incorrect;
- (2) the conditions under which the permit or permit renewal was granted have changed;
- (3) violations of conditions contained in the permit have occurred;
- (4) the permit holder fails to pay fees required under MCAPCO Section 1.5200 - "Air Quality Permits" within 30 days after being billed;
- (5) the permittee refuses to allow the Director or his authorized representative upon presentation of credentials:
 - (A) to enter, at reasonable times and using reasonable safety practices, the permittee's premises in which a source of emissions is located or in which any records are required to be kept under terms and conditions of the permit;
 - (B) to have access, at reasonable times, to any copy or records required to be kept under terms and conditions of the permit;
 - (C) to inspect, at reasonable times and using reasonable safety practices, any source of emissions, control equipment, and any monitoring equipment or method required in the permit; or
 - (D) to sample, at reasonable times and using reasonable safety practices, any emission source at the facility;
- (6) EPA requests that the permit be revoked under 40 CFR 70.7(g) or 70.8(d);
or
- (7) the Director finds that termination, modification or revocation and reissuance of a permit is necessary to carry out the purpose of G.S. Chapter 143, Article 21B.

(b) To operate a facility or source after its permit has been revoked is a violation of this Section and G.S. 143-215.108.

(c) The Director shall notify the permittee at least 60 days in advance of the date that the permit is to be terminated, modified, or revoked and reissued.

(d) Any person whose permit is terminated, modified, or revoked and reissued shall have the right to appeal the Director's decision in accordance with MCAPCO Regulation 1.5306 - "Hearings" which references Article 3 of G.S. 150B. The person shall have 30 days following receipt of the notice of the Director's decision on the termination, modification, or revocation and reissuance in which to appeal the Director's decision.

1.5520 CERTIFICATION BY RESPONSIBLE OFFICIAL

(a) A responsible official shall certify the truth, accuracy, and completeness of any application form, report, or compliance certification required under this Section or by a term or condition in a permit issued under this Section.

(b) This certification shall state that, based on information and belief formed after reasonable inquiry, the statement and information in the document are true, accurate, and complete.

1.5521 PUBLIC PARTICIPATION

(a) The Director shall give public notice with an opportunity for comments and a hearing on all draft permits and permit revisions except permit revisions issued under MCAPCO Regulation 1.5514 - "Administrative Permit Amendments", 1.5515 - "Minor Permit Modifications", or 1.5524 - "Ownership Change". The Director may give public notice with an opportunity for comments and a hearing on draft permit revisions issued under MCAPCO Regulation 1.5514 - "Administrative Permit Amendments", 1.5515 - "Minor Permit Modifications", or 1.5524 - "Ownership Change".

(b) The notice shall be given by publication in a newspaper of general circulation in the area where the facility is located and shall be available for review at Mecklenburg County Air Quality.

(c) The notice shall identify:

- (1) the affected facility;
 - (2) the name and address of the permittee;
 - (3) the name and address of the person to whom to send comments and requests for public hearing;
 - (4) the name, address, and telephone number of Department staff from whom interested persons may obtain additional information, including copies of the permit draft, the application, compliance plan, monitoring and compliance reports, all other relevant supporting materials, and all other materials available to the Department that are relevant to the permit decision;
 - (5) the activity or activities involved in the permit action;
 - (6) any emissions change involved in any permit modification;
 - (7) a brief description of the comment procedures;
 - (8) the procedures to follow to request a hearing unless a hearing has already been scheduled;
- and

- (9) the time and place of any hearing that has already been scheduled.
- (d) The Director shall send a copy of the notice to affected States and EPA.
- (e) The notice shall allow 30 days for public comments.
- (f) If the Director finds that a public hearing is in the best interest of the public, the Director shall require a public hearing to be held on a draft permit. Notice of a public hearing shall be given at least 30 days before the hearing.
- (g) If EPA requests a record of the comments and of the issues raised during the public participation process, the Director shall provide EPA this record.
- (h) Confidential material shall be handled in accordance with MCAPCO Regulation 1.5217 - "Confidential Information".

1.5522 REVIEW BY EPA AND AFFECTED STATES

- (a) The Director shall provide EPA a copy of each permit application, including any application for permit revision, each proposed permit, and each final permit issued under this Section. If EPA has informed the Director that a permit application summary and relevant portion of the permit application and compliance plan are all it needs, the Director may provide this abridgement in place of the complete application.
- (b) The Department shall retain for five years a copy of all permit applications, permits, and other related material submitted to or issued by the Department under this Section.
- (c) The Director shall provide notice to each affected State of each draft permit at or before the time notice is provided to the public under MCAPCO Regulation 1.5521 - "Public Participation".
- (d) The Director, in writing, shall notify EPA and any affected State of any refusal by the Department to accept all recommendations for the proposed permit that the affected State submitted during the public or affected State review period and shall state the reasons for not accepting any such recommendations.

1.5523 CHANGES NOT REQUIRING PERMIT REVISIONS

(a) Section 502(b)(10) changes:

- (1) The permittee may make Section 502(b)(10) changes without having his permit revised if:
 - (A) the changes are not a modification under MCAPCO Article 2.0000 or Title I of the federal Clean Air Act;
 - (B) the changes do not cause the emissions allowable under the permit to be exceeded;
 - (C) the permittee notifies the Director and EPA with written notification at least seven days before the change is made; and
 - (D) the permittee attaches the notice to the relevant permit.
- (2) The written notification required under Part (a)(1)(C) of this Regulation shall include:
 - (A) a description of the change,
 - (B) the date when the change will occur,
 - (C) any change in emissions,
and
 - (D) any permit term or conditions that is no longer applicable as a result of the change.
- (3) Section 502(b)(10) changes shall be made in the permit the next time that the permit is revised or renewed, whichever comes first.

(b) Off-permit changes. A permittee may make changes in his operation or emissions without revising his permit if:

- (1) the change affects only insignificant activities and the activities remain insignificant after the change, or
- (2) the change is not covered under any applicable requirement.

(c) Emissions trading.

- (1) To the extent that emissions trading is allowed under MCAPCO Article 2.0000, including subsequently adopted maximum achievable control technology standards, emissions trading is allowed without permit revisions provided that:
 - (A) all applicable requirements are met;
 - (B) the permittee complies with all terms and conditions of the permit in making the emissions trade; and
 - (C) the permittee notifies the Director and EPA with written notification at least seven days before the trade is made; this notification requirement does not apply to trades made under MCAPCO Regulations 2.2408 – “Trading Program and Banking” (CAIR), or 2.2510 – “Trading and Banking” (CAMR).
- (2) If an emissions cap has been established by a permit condition for the purposes of limiting emissions below that allowed by an otherwise applicable requirements, emissions trading is allowed to the extent allowed by the permit if:
 - (A) an emissions cap is established in the permit to limit emissions;
 - (B) the permit specifies the emissions limits with which each source shall comply under any applicable requirement;
 - (C) the permittee complies with all permit terms that ensure the emissions trades are

- enforceable, accountable, and quantifiable;
 - (D) the permittee complies with all applicable requirements;
 - (E) the permittee complies with the emissions trading procedures in the permit;
 - (F) the permittee notifies the Director and EPA with written notification at least seven days before the trade is made.
- (3) The written notification required under Subparagraph (1) of this Paragraph shall include:
- (A) a description of the change,
 - (B) the date on when the change will occur,
 - (C) any change in emissions,
 - (D) the permit requirement with which the facility or source will comply using the emissions trading provision of the applicable provision of MCAPCO Article 2.0000, and
 - (E) the pollutants emitted subject to the emissions trade.
- (4) The written notification required under Subparagraph (2) of this Paragraph shall include:
- (A) a description of the change,
 - (B) the date on when the change will occur,
and
 - (C) changes in emissions that will result and how the increases and decrease in emissions will comply with the terms and conditions of the permit.

(d) The permit shield allowed under MCAPCO Regulation 1.5512 - “Permit Shield and Application Shield” does not apply to changes made under Paragraphs (a),(b), or (c) of this Regulation.

1.5524 OWNERSHIP CHANGE

- (a) Applications for ownership changes shall:
- (1) contain the information required under MCAPCO Regulation 1.5505 - “Application Submittal Content” Paragraph (4), and
 - (2) follow the procedures under MCAPCO Section 1.5200 - “Air Quality Permits”.
- (b) When the Director permits an ownership change, he shall submit a copy of the permit to EPA as an administrative amendment.

1.5525 APPLICATION PROCESSING SCHEDULE

(a) Except for permit applications submitted under MCAPCO Regulation 1.5506 - "Initial Permit Application Submittal", the Department shall adhere to the following schedule in processing applications for permits, significant permit modifications, and permit renewal:

- (1) The Department shall send written acknowledgment of receipt of the application to the applicant within 10 days of receipt of the application.
- (2) The Department shall review all permit applications within 60 days of receipt of the application to determine whether the application is complete or incomplete. The Department shall notify the applicant by letter:
 - (A) stating that the application as submitted is complete and specifying the completeness date,
 - (B) stating that the application is incomplete, requesting additional information and specifying the deadline date by which the requested information is to be received by the Department,
 - or
 - (C) stating that the application is incomplete and requesting that the applicant rewrite and resubmit the application.

If the Department does not notify the applicant by letter dated within 60 days of receipt of the application that the application is incomplete, the application shall be deemed complete. A completeness determination shall not prevent the Director from requesting additional information at a later date when such information is considered necessary to properly evaluate the source, its air pollution abatement equipment, or the facility. If the applicant has not provided the requested additional information by the deadline specified in the letter requesting additional information, the Director may return the application to the applicant as incomplete. The applicant may request a time extension for submittal of the requested additional information. A completeness determination shall not be necessary for minor modifications under MCAPCO Regulation 1.5514 - "Administrative Permit Amendments".

- (3) The Department shall determine within 60 days of receipt of a complete application if any additional information is needed to conduct the technical review of the application. A technical completeness determination shall not prevent the Director from requesting additional information at a later date when such information is considered necessary to properly evaluate the source, its air pollution abatement equipment or the facility. The Department shall complete the technical review within 270 days of receipt of a complete application or 10 days after receipt of requested additional information, whichever is later.
- (4) The Director shall send the public notice for public comment on the draft permit to affected states, to EPA, and to persons on the mailing list within 270 days after receipt of a complete application or 10 days after receipt of requested additional information, whichever is later.
- (5) If a public hearing is requested and approved by the Director for a draft permit, it shall be held within 45 days of the Director's decision to hold a public hearing.
- (6) The Director shall complete the review of the record and send the proposed permit to EPA:
 - (A) within 30 days after the close of the public comment period if there is no public

- hearing on the draft permit,
or
- (B) within 45 days after the close of the public hearing if there is a public hearing on the draft permit.
- (7) If EPA does not object to the proposed permit, the Director shall issue the permit within five days after:
 - (A) expiration of EPA 45-day review period,
or
 - (B) receipt of notice from EPA that it will not object to issuance,
whichever comes first.
- (8) If EPA objects to the proposed permit, the Director shall respond to EPA's objection within 90 days after receipt of EPA's objections.

(b) The Director may return at any time applications containing insufficient information to complete the review.

*History: Statutory Authority G.S. 143-215.3(a)(1); 143-215.107(a)(10); 143-215.108; Eff. February 1, 1995;
Amended Eff. July 1, 1998.*

1.5526 112(j) CASE-BY-CASE MACT PROCEDURES

(a) The owner or operator of a source required to apply maximum achievable control technology (MACT) under MCAPCO Regulation 2.1109 - "112(j) Case-By-Case Maximum Achievable Control Technology" shall follow the permit procedures set out in this Regulation.

(b) For the purposes of this Regulation, the definitions in MCAPCO Regulation 2.1109 - "112(j) Case-By-Case Maximum Achievable Control Technology", 40 CFR 63.51, 40 CFR 63.2, and the following definitions apply:

- (1) **"Equivalent emission limitation"** means an emission limitation, established under Section 112(j) of the federal Clean Air Act, that is equivalent to the MACT standard that EPA would have promulgated under Section 112(d) or (h) of the federal Clean Air Act.
- (2) **"Source category schedule for standards"** means the schedule for promulgating MACT standards issued pursuant to Section 112(e) of the federal Clean Air Act.
- (3) **"Title V permit"** means a permit issued under this Section.

(c) Except as provided for in Paragraph (d) or (e) of this Regulation, the owner or operator of a source required to apply MACT under MCAPCO Regulation 2.1109 - "112(j) Case-By-Case Maximum Achievable Control Technology" shall submit an application for a permit or for a significant permit revision under this Section, whichever is applicable.

(d) Approval process for new and existing affected sources.

- (1) Sources subject to section 112(j) as of the section 112(j) deadline. The requirements of Parts (d)(1)(A) and (B) of this Paragraph shall apply to major sources that include,

as of the section 112(j) deadline, one or more sources in a category or subcategory for which the EPA has failed to promulgate an emission standard under 40 CFR Part 63 on or before an applicable section 112(j) deadline. Existing source MACT requirements (including relevant compliance deadlines), as specified in a Title V permit issued to the facility pursuant to the requirements of 40 CFR Part 63, Subpart B, shall apply to such sources.

- (A) The owner or operator shall submit an application for a permit or for a revision to an existing Title V permit issued or a pending Title V permit meeting the requirements of Subparagraph (m)(1) of this Regulation by the section 112(j) deadline if the owner or operator can reasonably determine that one or more sources at the facility belong in a category or subcategory subject to Section 112(j) of the federal Clean Air Act.
- (B) The owner or operator of a source that does not submit an application under Part (d)(1)(A) of this Regulation and that is notified in writing by the Department that one or more sources at the facility belong to a category or subcategory subject to Section 112(j) of the federal Clean Air Act shall submit an application for a Title V permit or for a revision to an existing Title V permit meeting the requirements of Subparagraph (m)(1) of this Regulation within 30 days after being notified in writing by the Department. The Department is not required to make such notification.
- (C) The requirements in Subparts (i) and (ii) of this Part shall apply when the owner or operator has obtained a Title V permit that incorporates a section 112(g) case-by-case MACT determination by the Department under MCAPCO Regulation 2.1112 - “112(g) Case-By-Case Maximum Achievable Control Technology”, but has not submitted an application for a Title V permit revision that addresses the emission limitation requirements of Section 112(j) of the federal Clean Air Act.
 - (i) When the owner or operator has a Title V permit that incorporates a section 112(g) case-by-case MACT determination under MCAPCO Regulation 2.1112 - “112(g) Case-By-Case Maximum Achievable Control Technology”, the owner or operator shall submit an application meeting the requirements of Subparagraph (m)(1) of this Regulation for a Title V permit revision within 30 days of the section 112(j) deadline or within 30 days of being notified that in writing by the Department that one or more sources at the major facility belong in such category or subcategory. The Department shall use the procedures in 40 CFR 63.52(e) to determine whether the emission limitations adopted pursuant to the prior 112(g) case-by-case MACT determination are substantially as effective as the emission limitations that the Department would otherwise adopt pursuant to Section 112(j) of the federal Clean Air Act for the source in question. If the Department determines the previously adopted 112(g) emission limitations are substantially as effective, then the Department shall retain the existing limitations in the permit to effectuate Section 112(j) of the federal Clean Air Act. If the Department does not retain the previously adopted 112(g) emission limitations, the MACT requirements of this Regulation are

satisfied upon issuance of a revised Title V permit incorporating any additional section 112 (j) requirements.

- (ii) When the owner or operator that has submitted a Title V permit application that incorporates a section 112(g) case-by-case MACT determination by the Department under MCAPCO Regulation - “112(g) Case-By-Case Maximum Achievable Control Technology”, but has not received the permit incorporating the section 112(g) requirements, the owner or operator shall continue to pursue a Title V permit that addresses the requirements of Section 112(g) of the federal Clean Air Act. The owner or operator shall submit a permit application meeting the requirements of Subparagraph (m)(1) of this Regulation within 30 days of issuance of that Title V permit. The Department shall use the procedures in 40 CFR 63.52(e) to determine whether the emissions limitations adopted pursuant to the prior 112(g) case-by-case MACT determination are substantially as effective as the emission limitations that the Department would otherwise adopt pursuant to Section 112(j) of the federal Clean Air Act for the source in question. If the Department determines the previously adopted 112(g) emission limitations are substantially as effective, then the Director shall retain the existing emission limitations to effectuate Section 112(j) of the federal Clean Air Act and revise the permit accordingly. If the Department does not retain the previously adopted 112(g) emission limitations, the MACT requirements of this Regulation are satisfied upon issuance of a revised Title V permit incorporating any additional section 112 (j) requirements.

(e) Sources that become subject to Section 112(j) of the federal Clean Air Act after the section 112(j) deadline and that do not have a Title V permit addressing section 112(j) requirements. The requirements of this Paragraph apply to sources that do not meet the criteria in Paragraph (d) of this Regulation on the section 112(j) deadline and are therefore not subject to Section 112(j) of the federal Clean Air Act on that date, but where events occur subsequent to the section 112 (j) deadline that would bring the source under the requirements of this Regulation, and the source does not have a Title V permit that addresses the requirements of Section 112(j) of the federal Clean Air Act.

- (1) When one or more sources in a category or subcategory subject to the requirements of this Regulation are installed at a major source, or result in the source becoming a major source due to the installation, and the installation does not invoke section 112(g) requirements in MCAPCO Regulation 2.1112 - “112(g) Case-By-Case Maximum Achievable Control Technology”, the owner or operator shall submit an application meeting the requirements of Subparagraph (m)(1) of this Regulation within 30 days of startup of the source. Existing source MACT requirements (including relevant compliance deadlines), as specified in a Title V permit issued pursuant to the requirements of this Regulation, shall apply to such sources. The Department shall use the procedures in 40 CFR 63.52(e) to determine whether the emissions limitations adopted pursuant to the prior 112(g) case-by-case MACT determination are substantially as effective as the emission limitations that the Department would otherwise adopt pursuant to Section 112(j) of the federal Clean Air Act for the source

- in question. If the Department determines the previously adopted 112(g) emission limitations are substantially as effective, then the Department shall retain the existing emission limitations to effectuate Section 112(j) of the federal Clean Air Act and revise the permit accordingly. If the Department does not retain the previously adopted 112(g) emission limitations, the MACT requirements of this Regulation are satisfied upon issuance of a revised Title V permit incorporating any additional section 112 (j) requirements.
- (2) When one or more sources in a category or subcategory subject to 112(j) requirements are installed at a major source or result in the source becoming a major source due to the installation, and the installation requires 112(g) emission limitations to be established and permitted under MCAPCO 1.5528 - “112(g) Case-By-Case MACT Procedures”, and the owner or operator has not submitted an application for a Title V permit revision that addresses the emission limitation requirements of Section 112(j) of the federal Clean Air Act, the owner or operator shall apply for and obtain a Title V permit that addresses the emission limitation requirements of Section 112(g) of the federal Clean Air Act. Within 30 days of issuance of that Title V permit, the owner or operator shall submit an application meeting the requirements of Subparagraph (m)(1) of this Regulation for a revision to the existing Title V permit. The Department shall determine whether the emissions limitations adopted pursuant to the prior 112(g) case-by-case MACT determination are substantially as effective as the emission limitations that the Department would otherwise adopt pursuant to Section 112(j) of the federal Clean Air Act for the source in question. If the Department determines the previously adopted 112(g) emission limitations are substantially as effective, then the Department shall retain the existing emission limitations to effectuate Section 112(j) of the federal Clean Air Act and revise the permit accordingly. If the Department does not retain the previously adopted 112(g) emission limitations, the permit shall be revised to incorporate any additional Section 112(j) requirements.
 - (3) The owner or operator of an area source that, due to a relaxation in any federally enforceable emission limitation (such as a restriction on hours of operation), increases its potential to emit hazardous air pollutants such that the source becomes a major source that is subject to this Regulation, shall submit an application meeting the requirements of Subparagraph (m)(1) of this Regulation within 30 days after the date that such source becomes a major source. The Director shall use the procedures in Paragraph (n) of this Regulation in reviewing the application. The existing source MACT requirements (including relevant compliance deadlines), shall apply to such sources.
 - (4) If EPA establishes a lesser quantity emission rate under section 112(a)(1) of the federal Clean Air Act that results in an area source becoming a major source that is subject to this Regulation, then the owner or operator of such a major source shall submit an application meeting the requirements of Subparagraph (m)(1) of this Regulation on or before the date six months after the date that such source becomes a major source. Existing source MACT requirements (including relevant compliance deadlines), as specified in a Title V permit issued pursuant to the requirements of this Regulation, shall apply to such sources.

(f) Sources that have a Title V permit addressing section 112(j) requirements. The requirements of this Paragraph apply to major sources that include one or more sources in a category or subcategory for which EPA fails to promulgate an emission standard on or before the section 112(j) deadline, and the owner or operator has a permit meeting the section 112(j) requirements, and where changes occur at the major source to equipment, activities, or both, subsequent to the section 112(j) deadline.

- (1) If the Title V permit already provides the requirements that address the events that occur under this Paragraph subsequent to the section 112(j) deadline, then the source shall comply with the applicable new source MACT or existing source MACT requirements as specified in the permit, and the section 112(j) requirements are thus satisfied.
- (2) If the Title V permit does not contain the requirements that address the events that occur under this Paragraph subsequent to the section 112(j) deadline, then the owner operator shall submit an application for a revision to the existing Title V permit that meets the requirements of Subparagraph (m)(1) of this Regulation within 30 days of beginning construction. Existing source MACT requirements (including relevant compliance deadlines), as specified in a Title V permit issued pursuant to the requirements of this Regulation shall apply to such sources.

(g) Requests for applicability determination. An owner or operator who is unsure of whether one or more sources at a major source belong in a category or subcategory for which EPA has failed to promulgate an emission standard under this 40 CFR Part 63 may, on or before an applicable section 112(j) deadline, request an applicability determination from the Department by submitting an application meeting the requirements of Subparagraph (m)(1) of this Regulation by the applicable deadlines specified in paragraphs (d), (e), or (f) of this Regulation.

(h) An owner or operator who submits a Part 1 MACT application meeting the requirements of Subparagraph (m)(1) of this Regulation shall submit a Part 2 MACT application meeting the requirements of Subparagraph (m)(2) of this Regulation no later than the applicable date specified in 40 CFR 63 Subpart B Table 1. The submission date specified in 40 CFR 63 Subpart B Table 1 for Miscellaneous Organic Chemical Manufacturing shall apply to sources in each of the source categories listed in 40 CFR 63 Subpart B Table 2. When an owner or operator is required by MCAPCO Regulation 2.1109 - "112(j) Case-By-Case Maximum Achievable Control Technology" and this Regulation to submit an application meeting the requirements of Subparagraph (m)(1) of this Regulation by a date that is after the date for a Part 2 MACT application for sources in the category or subcategory in question established by 40 CFR 63 Subpart B Table 1, the owner or operator shall submit a Part 2 MACT application meeting the requirements of Subparagraph (m)(2) of this Regulation within 60 additional days after the applicable deadline for submission of the Part 1 MACT application. The Part 2 applications shall be reviewed by the Department according to the procedures established in 40 CFR 63.55.

- (1) Any owner or operator who submitted a request for an applicability determination on or before May 15, 2002, that remained pending as of May 30, 2003, and who still wishes to obtain such a determination must resubmit that request by the date that is 60 days after the Administrator publishes in the Federal Register a proposed standard under section 112(d) or 112(h) of the Clean Air Act for the category or subcategory in

question. Such a resubmitted request must be supplemented to discuss the relation between the source(s) in question and the applicability provision in the proposed standard for the category or subcategory in question, and to explain why there may still be uncertainties that require a determination of applicability. The Director shall take action on each supplemented and resubmitted request within an additional 60 days after the applicable deadline for the resubmitted request. If more than three years remain on the current Title V permit, the owner or operator shall submit an application for a Title V permit revision to make any conforming changes in the permit required to adopt the existing emission limitations as the section 112(j) MACT emission limitations. If less than three years remain on the current Title V permit, any required conforming changes shall be made when the permit is renewed. If the applicability determination is positive, the owner or operator shall submit a Part 2 MACT application meeting the requirements of Subparagraph (m)(2) of this Regulation by the date specified for the category or subcategory in question in 40 CFR 63 Subpart B Table 1. If the applicability determination is negative, no further action by the owner or operator is necessary.

- (2) An owner or operator who has submitted an application meeting the requirements of Subparagraph (m)(1) of this Regulation may request a determination of whether emission limitations adopted pursuant to a prior case-by-case MACT determination under section 112(g) that apply to one or more sources in a relevant category or subcategory are substantially as effective as the emission limitations that the Department would otherwise adopt pursuant to this Regulation for the source in question. Such a request must be submitted by the date for the category or subcategory in question specified in 40 CFR 63 Subpart B Table 1. Each request for a determination under this Paragraph shall be construed as a complete application for an equivalent emission limitation under this Regulation. If the Director determines that the emission limitations in the prior case-by-case MACT determination are substantially as effective as the emission limitations the Director would otherwise adopt under this Regulation, then the Director must adopt the existing emission limitations in the permit as the emission limitations to effectuate section 112(j) for the source in question. If the Director determines that the emission limitations in the prior case-by-case MACT determination under section 112(g) are not substantially as effective as the emission limitations that the Director would otherwise adopt for the source in question under this Regulation, the Director must make a new MACT determination and adopt a Title V permit incorporating an appropriate equivalent emission limitation under this Regulation. The Department shall use the procedures in 40 CFR 63.52(e) to determine whether the emission limitations adopted pursuant to the prior 112(g) case-by-case MACT determination are substantially as effective as the emission limitations which Department would otherwise adopt pursuant to Section 112(j) of the federal Clean Air Act for the source in question.

- (i) If the Director disapproves a permit application submitted under this Regulation or determines that the application is incomplete, the owner or operator shall revise and resubmit the application to meet the Director's objections not later than six months after first receiving notification that the application has been disapproved or is incomplete.

(j) If the owner or operator of a source subject to this Regulation has submitted a timely and complete application for a permit, significant permit revision, or administrative amendment required by this Regulation, any failure to have this permit shall not be a violation of the requirements of this Regulation unless the delay in final action is due to the failure of the applicant to submit, in a timely manner, information required or requested to process the application.

(k) The permit shall contain the items specified in 40 CFR 63.52 including:

- (1) specification of the affected source and the new affected source
- (2) an emission limitation (or limitations) or emission standard equivalent to existing source MACT and an emission limitation (or limitations) equivalent to new source MACT for control of emissions of hazardous air pollutants for that category or subcategory determined by the Director according to 40 CFR 63.55(a) on a case-by-case basis;
- (3) any emission limits, production limits, operational limits or other terms and conditions necessary to ensure practicable enforceability of the MACT emission limitation;
- (4) any notification, operation and maintenance, performance testing, monitoring, reporting, and recordkeeping requirements; and
- (5) a compliance date(s) by which the owner or operator of an existing source shall be in compliance with the MACT emission limitation and all other applicable terms and conditions of the permit not to exceed three years from the date of issuance of the permit (The owner or operator of a new affected source shall comply with a new source MACT level of control immediately upon startup.)

(l) Early reductions made pursuant to Section 112(i)(5)(A) of the federal Clean Air Act shall be achieved not later than the date on which the relevant standard should have been promulgated according to the source category schedule for standards.

(m) A permit application for a MACT determination shall consist of two parts.

- (1) The Part 1 application shall contain the information required under 40 CFR 63.53(a) and shall be submitted by the applicable deadline specified in Paragraph (d), (e), or (f) of this Regulation.
- (2) The Part 2 application shall contain the information required under 40 CFR 63.53(b) and shall be submitted no later than the deadline in 40 CFR 63 Subpart B Table 1.

(n) Permit application review. The Director shall follow 40 CFR 63.55(a) in reviewing permit applications for MACT. The resulting MACT determination shall be incorporated into the facility's Title V permit according to the procedures established under this Section. Following submittal of a Part 1 or Part 2 MACT application, the Director may request, pursuant to MCAPCO Regulation 1.5507 - "Application" Paragraph (c) and Regulation 1.5525 - Application Processing Schedule" Paragraph (a), additional information from the owner or operator; and the owner or operator shall submit the requested information within 30 days. A Part 2 MACT application is complete if it is sufficient to begin processing the application for a Title V permit addressing section 112(j) requirements. If the Department disapproves a permit application or

determines that the application is incomplete, the owner or operator shall revise and resubmit the application to meet the objections of the Department within the time period specified by the Department. Such time period shall not exceed six months from the date that the owner or operator is first notified that the application has been disapproved or is incomplete. The Director shall issue a Title V permit meeting section 112(j) requirements after receipt of a complete Part 2 MACT application following the schedule in MCAPCO Regulation 1.5525 - "Application Processing Schedule".

(o) The following requirements apply to case-by-case determinations of equivalent emission limitations when a MACT standard is subsequently promulgated:

- (1) If EPA promulgates an emission standard that is applicable to one or more sources within a major facility before the date a proposed permit under this Regulation is approved, the permit shall contain the promulgated standard rather than the emission limitation determined under MCAPCO Regulation 2.1109 - "112(j) Case-By-Case Maximum Achievable Control Technology", and the owner or operator of the source shall comply with the promulgated standard by the compliance date in the promulgated standard.
- (2) If EPA promulgates an emission standard that is applicable to a source after the date that a permit is issued under this Regulation, the Director shall revise the permit on its next renewal to reflect the promulgated standard. (Subparagraph (a)(1) of MCAPCO Regulation 1.5517 - "Reopening for Cause" does not apply to requirements established under this Regulation.) The Director shall establish a compliance date in the revised permit that assures that the owner or operator shall comply with the promulgated standard within a reasonable time, but no longer than eight years after such standard is promulgated or eight years after the date by which the owner or operator was first required to comply with the emission limitation established by permit, whichever is earlier. However, in no event shall the period for compliance for existing sources be shorter than that provided for existing sources in the promulgated standard.
- (3) Notwithstanding the requirements of Subparagraphs (1) or (2) of this Paragraph, if EPA promulgates an emission standard that is applicable to a source after the date a proposed permit is approved, the Director need not change the emission limitation in the permit to reflect the promulgated standard if the level of control required by the emission limitation in the permit is as effective as that required by the promulgated standard. If EPA promulgates an emission standard that is applicable to an affected source after the date a permit application is approved, and the level of control required by the promulgated standard is less stringent than the level of control required by any emission limitation in the prior MACT determination, the Department is not required to incorporate any less stringent emission limitation of the promulgated standard and may consider any more stringent provisions of the MACT determination to be applicable legal requirements when issuing or revising such a Title V permit.

History Note: Authority G.S. 143-215.3(a)(1); 143-215.107(a)(10); 143-215.108;
Eff. July 1, 1996;
Amended Eff. February 1, 2004.

1.5527 EXPEDITED APPLICATION PROCESSING SCHEDULE

(a) Using the procedures contained in this Regulation may result in a permit that EPA does not recognize as a valid permit.

(b) An applicant may file an application to follow the expedited review for application certified by a professional engineer as set out in G.S. 143-215.108(h) if:

- (1) The applicant specifically requests that the permit application be processed under the procedures in G.S. 143-215.108(h); and
- (2) The applicant submits:
 - (A) applications as required under MCAPCO Regulations 1.5505 - "Application Submittal Content" and 1.5507 - "Application";
 - (B) a completeness check list showing that the permit application is complete;
 - (C) a draft permit;
 - (D) any required dispersion modeling;
 - (E) a certification signed by a professional engineer registered in North Carolina certifying the accuracy and completeness of draft permit and the application, including emissions estimates, applicable standards and requirements, and process specifications;
 - (F) a consistency determination as required under MCAPCO Regulation 1.5507 - "Application" Subparagraph (d)(1);
 - (G) a written description of current and projected plans to reduce the emissions of air contaminants as required under MCAPCO Regulation 1.5507 - "Application" Subparagraph (d)(2);
 - (H) a financial qualification if required;
 - (I) substantial compliance statement if required;
and
 - (J) the application fee as required under MCAPCO Regulation 1.5231 - "Air Quality Fees".

(c) The applicant shall use the official application forms provided by the Department or a facsimile thereof.

(d) The Department shall provide the applicant a checklist of all items of information required to prepare a complete permit application. This checklist shall be the checklist used by the Department to determine if the application is complete.

(e) The Department shall provide the applicant a list of permit conditions and terms to include in the draft permit.

(f) Before filing a permit application that includes dispersion modeling analysis submitted in support of the application, the applicant shall submit a modeling protocol and receive approval for the dispersion modeling protocol.

(g) The Department shall follow the procedures set out in G.S. 143-215.108(h) when processing applications filed in accordance with this Regulation.

(h) The decision that the Director shall make on applications processed under this Regulation is either to deny the permit or to submit a proposed permit to EPA.

(i) If EPA does not object to the proposed permit, the Director shall issue the permit within five days after:

(1) expiration of EPA 45-day review period;

or

(2) receipt of notice from EPA that it will not object to issuance,
whichever comes first.

(j) If EPA objects to the proposed permit, the Director shall respond to EPA's objection within 90 days after receipt of EPA's objections.

*History Note: Authority G.S. 143-215.3(a)(1); 143-215.108;
Eff. July 1, 1998.*

1.5528 112(g) CASE-BY-CASE MACT PROCEDURES

(a) Applicability. The owner or operator of a source required to apply maximum achievable control technology (MACT) under MCAPCO Regulation 2.1112 - "112(g) Case-by-Case Maximum Achievable Control Technology" shall follow the permit procedures set out in this Regulation.

(b) Construction prohibition. After July 1, 1998 a person shall not begin actual construction or reconstruction of a major source of hazardous air pollutants unless:

(1) The major source has been specifically regulated or exempted from regulation under:

(A) MCAPCO Regulations 2.1109 - "112(j) Case-By-Case Maximum Achievable Control Technology" or 2.1111 - "Maximum Achievable Control Technology",
or

(B) a standard issued pursuant to Section 112(d), 112(h), or 112(j) of the federal Clean Air Act under 40 CFR Part 63,

and the owner and operator has fully complied with all procedures and requirements for preconstruction review established by that standard, including any applicable requirements set forth in 40 CFR Part 63, Subpart A;

or

(2) The Department has made a final and effective case-by-case determination under MCAPCO Regulation 2.1112 - "112(g) Case-by-Case Maximum Achievable Control Technology" such that emissions from the constructed or reconstructed major source will be controlled to a level no less stringent than the maximum achievable control technology emission limitation for new sources.

(c) Requirements for constructed and reconstructed major sources. When a case-by-case determination of MACT is required by MCAPCO Regulation 2.1112 - "112(g) Case-By-Case Maximum Achievable Control Technology", the owner and operator shall submit a permit

application to the Department and the Department shall process the application following the procedures of MCAPCO Regulation 1.5501 - “Purpose of Section and Requirement for a Permit” Paragraph(c).

(d) Alternative operating scenarios. When applying for a permit, the owner or operator may request approval of case-by-case MACT determinations for alternative operating scenarios. Approval of such determinations satisfies the requirements of Section 112(g) of the federal Clean Air Act for each such scenario.

(e) Application requirements for a case-by-case MACT determination. The owner or operator of a source required to apply MACT under MCAPCO Regulation 2.1112 - “112(g) Case-By-Case Maximum Achievable Control Technology” shall submit a permit application that contains all the information required under 40 CFR 63.43(e).

(f) Reporting to the EPA. Within 60 days of the issuance of a permit under this Section or Section 1.5200 - “Air Quality Permits” incorporating a MACT determination, the Director shall provide a copy of such permit to EPA, and shall provide a summary in a compatible electronic format for inclusion in the MACT data base.

History Note: Authority G.S. 143-215.3(a)(1); 143-215.107(a)(5), (10);
Eff. July 1, 1998.

